

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RONALD G. BEAGLES,

Petitioner,

v.

MAGGIE MILLER-STOUT,

Respondent.

No. C02-203P

ORDER DENYING  
CERTIFICATE OF  
APPEALABILITY

This matter came before the Court on Petitioner Ronald G. Beagles' request for a Certificate of Appealability. Having reviewed all relevant materials, this Court concludes that Mr. Beagles has not made a substantial showing of the denial of a constitutional right. Accordingly, his request for a certificate of appealability is hereby DENIED.

28 U.S.C. § 2253(c)(2) provides that a certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." To satisfy this standard, petitioners must show "that reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" Slack v. McDaniel, 120 S.Ct. 1595, 1603-04 (2000) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)). In Slack v. McDaniel, the Supreme Court articulated the standard to apply when a court denies a habeas petition based upon procedural grounds:

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1 When the district court denies a habeas petition on procedural grounds without  
2 reaching the prisoner's underlying constitutional claim, a [certificate of appealability]  
3 should issue when the prisoner shows, at least, that jurists of reason would find it  
4 debatable whether the petition states a valid claim of the denial of a constitutional  
5 right and that jurists of reason would find it debatable whether the district court was  
6 correct in its procedural ruling.

7 Id. at 1604. See also Morris v. Woodford, 229 F.3d 775 (9th Cir. 2000).

8 Petitioner Beagles has failed to make a substantial showing of the denial of a  
9 constitutional right. This Court denied Mr. Beagles' petition on the grounds that (1) on  
10 remand, he failed to do what this Court and the Ninth Circuit Court of Appeals directed him  
11 to do, and (2) having been upheld by the Ninth Circuit in its finding that Petitioner had filed  
12 a "mixed petition," this Court is now prohibited from ignoring the higher court and adopting  
13 Petitioner's position. Applying the standard articulated in Slack, this Court cannot conclude  
14 that reasonable jurists could find it debatable whether this Court was correct in its rulings.

15 Accordingly, petitioner's request for a certificate of appealability is hereby DENIED.

16 Dated this \_10<sup>th</sup> day of January, 2007.

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19 Marsha J. Pechman  
20 U.S. District Judge  
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